

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANTONIO ALVARADO,

Plaintiff,

Hon. Paul L. Maloney

v.

Case No. 1:08-CV-93

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

REPORT AND RECOMMENDATION

This is an action pursuant to Section 205(g) of the Social Security Act, 42 U.S.C. § 405(g), to review a final decision of the Commissioner of Social Security denying Plaintiff's claim for benefits. Pursuant to 28 U.S.C. § 636(b)(1)(B), the undersigned recommends that Plaintiff's appeal be **dismissed without prejudice for failure to timely effect service.**

Plaintiff - with the benefit of counsel - initiated the present action on January 28, 2008. (Dkt. #1). On January 13, 2009, the Court, because Plaintiff had failed to effect service in this matter, ordered Plaintiff to "show cause why this matter should not be dismissed without prejudice for failure to timely effect service." Plaintiff was directed to respond to the Court's Order no later than January 23, 2009. Plaintiff was informed that failure to timely serve the summons and complaint could result in dismissal of his claims. Plaintiff has neither effected service in this matter nor responded to the Court's Order to Show Cause.

CONCLUSION

Accordingly, the undersigned recommends that Plaintiff's action be **dismissed without prejudice for failure to timely effect service.**

OBJECTIONS to this report and recommendation must be filed with the Clerk of Court within ten (10) days of the date of service of this notice. 28 U.S.C. § 636(b)(1)(C). Failure to file objections within the specified time waives the right to appeal the District Court's order. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

Date: February 5, 2009

/s/ Ellen S. Carmody
ELLEN S. CARMODY
United States Magistrate Judge